THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.19835 of 2006

23rd November 2006

Between:

1. The Divisional Commercial Manager, Secunderabad Division, IInd Floor, Sanchalan Bhavan, S.C.Railway, Secunderabad.

And one other.

...PETITIONERS

AND

G.Das, S/o.Somaiah, 46 years, Ticket Collector, O/o.CTI/G/SC, Secunderabad Division, South Central Railway, Secunderabad & R/o.222/1, Type II, Railway Quarters, Near Water Tank, Chilakalguda, Secunderabad.

...RESPONDENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.19835 of 2006

ORDER: (Per the Hon'ble Mr Justice Ramesh Ranganathan)

Heard both the sides and at their request, the Writ Petition itself is taken up for disposal at the admission stage.

Aggrieved by the order of the Central Administrative Tribunal, Hyderabad ('the Tribunal' for brevity) in O.A.No.350 of 2003 dated 12.08.2005; the present Writ Petition is filed.

The Tribunal held that since the disciplinary authority, competent to impose punishment on Travelling Ticket Examiner is the Senior Divisional Commercial Manager and inasmuch as punishment was imposed by Divisional Commercial Manager, the impugned order of punishment was an order passed without jurisdiction. Consequently, the entire disciplinary proceedings were quashed. The Tribunal directed the petitioners herein to restore the respondent-applicant back to his post of Head Travelling Ticket

Examiner and extend him all consequential benefits including arrears of salary and regularization of suspension period.

It is not in dispute that the competent disciplinary authority is the Senior Divisional Commercial Manager and that the Divisional Commercial Manager is not competent to impose punishment on the respondent-applicant.

Ms.Pushpinder Kaur, learned Standing Counsel for Railways, however, places reliance on the decision of the Apex Court in ***Sohan Singh and others v. The General Manager, Ordnance Factory, Khamaria, Jabalpur and others***[1] in support of her submission. In ***Sohan Singh***'s case (1 supra), the question, which arose for consideration was with regard to the jurisdiction of the Tribunal/Labour Courts under Section 33-C (2) of the Industrial Disputes Act, 1947. The judgment in ***Sohan Singh***'s case (1 supra) has no relevance to the facts of the present case. It is not in dispute that the first petitioner herein is not the competent disciplinary authority and as such both the second show cause notice proposing imposition of punishment and the final order of punishment, which were passed by the first petitioner, suffer from

inherent lack of jurisdiction. The order of the Tribunal quashing such orders do not call for interference.

Sri J.M.Naidu, learned counsel for the respondent-applicant would submit that since the charge sheet itself was issued by an incompetent authority, the very institution of the proceedings is without jurisdiction. No such plea was either raised before the Tribunal nor did the Tribunal have an occasion to examine this contention. For the first time, this contention is urged before this Court in certiorari proceedings. Since the Tribunal is the Court of first instance, we are not inclined to examine this contention, which has neither been pleaded in the O.A. nor raised even during the course of arguments before the Tribunal.

While the order of the Tribunal quashing the order of punishment does not call for interference, the Tribunal ought to have restricted its orders to quashing the order of punishment and should not have directed the petitioners herein to restore the respondent-applicant back to his post of Head Travelling Ticket Examiner and to extend him all consequential benefits including arrears of salary and regularization of the suspension period. Once the order of

punishment is quashed, it is for the competent authorities to decide as to what action is required to be taken and not for Courts/Tribunals, ordinarily, to interfere with such matters. The order of the Tribunal to the extent the order of punishment has been quashed is upheld. The other part of the order of the Tribunal in directing that the respondent-applicant be restored back to his post of Head Travelling Ticket Examiner and extend him all consequential benefits including arrears of salary and regularization of suspension period is set aside leaving it open to the petitioners herein to take action against the respondent-applicant in accordance with law.

The Writ Petition is accordingly allowed in part. However, in the circumstances, without costs.

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(B.PRAKASH RAO, J)

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(RAMESH RANGANATHAN, J)

23rd November 2006
RRB

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[1] AIR 1981 SC 1862